

THE GEORGE WASHINGTON UNIVERSITY  
Washington, D. C.

MINUTES OF A REGULAR MEETING  
OF THE FACULTY SENATE HELD ON  
OCTOBER 10, 1975, IN THE FACULTY  
CONFERENCE ROOM, SIXTH FLOOR,  
LISNER HALL

1 President Elliott called the meeting to order at 2:10 p.m.

Present: President Elliott, Provost Bright, Registrar Gebhardtshauer, Parliamentarian Schwartz, Adams, Albert, Boswell, Cassidy, Cottrell, Elliott, Fox, Griffith, Kirsch, N. Kramer, Liebowitz, Lilliefors, Lobuts for Vaill, Meltzer, Metivier for Linton, Morgan, Naeser, Pierpont, Purcell, Reich, Sapin, Schmidt, Smith, Solomon, Stevenson, Tillman, Vontress, and Wood.

Absent: Birnbaum, Grub, R. Kramer, Kurtz, Nash, and Schiff.

2 The President called upon Professor Morgan who, on behalf of the Senate, thanked the members of the Committee on Professional Ethics and Academic Freedom for their many hours of service to the University as evidenced in the Report of the Hearing Committee in the case of Associate Professor Linda G. De Pauw. Professor Morgan then moved that the Senate go into Executive Session for the purpose of considering the report, and President Elliott asked if there were any objections. No objections were heard and the motion was adopted unanimously. All persons other than elected and ex officio Senate members and Senate staff were requested by the President to leave the room, whereupon the Senate moved into Executive Session at 2:20 p.m. The Executive Session was concluded and the regular business of the Senate was resumed at 2:40 p.m.

3 The minutes of the September 12, 1975, meeting were approved as distributed.

4 Under Old Business, concerning reintroduction and further consideration of Resolution 73/7, "A Resolution Approving Revisions to the Faculty Code and Ordinances," Professor Stevenson, on behalf of the Professional Ethics and Academic Freedom Committee, referring to the proposed amendment to Section F. Procedures for Implementation of Article X of the Faculty Code on page 27 of Code Revision No. 2 (copies of which had been distributed to Senate members by memorandum dated October 6, 1975) stated that there were two major changes to these procedures recommended by the committee based upon its recent experience as a Hearing Committee. The first change called for eliminating the automatic appointment of the Professional Ethics and Academic Freedom Committee as the Hearing Committee and substituting a Hearing Committee comprised of five members and two alternates appointed by the Executive Committee of the Faculty Senate. He stated that this recommendation was made by the committee because more than one proceeding of this nature might arise during the course of one year and it would be unreasonable to require members of the Professional Ethics and Academic Freedom Committee to sit through more than one hearing per year. Further, Professor Stevenson said that the large membership of the Professional Ethics and Academic Freedom Committee made it extremely difficult to schedule hearing times so that all members could be present and this, in itself, posed a serious problem in maintaining continuity of the proceedings. Professor Stevenson stated that the other major recommendation of the committee called for striking the

entire last section on publicity. The committee thought this section imposed limitations on members of the faculty within the University which would be unconstitutional outside the University and recommended that good judgment and discretion be relied upon. Professor Stevenson noted that procedures to challenge a nonconcurrence were inferred in the present Code and in the proposed revised Code under Section 1. a) Preliminary Proceedings, which were less formal than the hearing procedures, and that it was not the intent of this provision to change the existing procedures for challenging a nonconcurrence by providing a hearing mechanism therefor. Professor Stevenson then moved adoption of the proposed amendment, and Professor Morgan seconded.

Professor Pierpont noted that it had been traditional for the Chairman of the Executive Committee to become involved in what used to be called "Step One" of the informal proceedings in trying to resolve an alleged nonconcurrence case and, while this procedure was not specifically prescribed in the Code, he asked if the committee had considered including it. Professor Stevenson said the committee had discussed that point and decided not to specifically include it as the words "informal consultation with the appropriate faculty members and administrative officers" contained in Section 1. a) could be construed to include the de facto practice involving consultation with the Chairman of the Executive Committee. Professor Morgan stated that it did not seem to him that anything in the present Code or the Code Revision prevented that procedure from taking place or required it to take place, and that, in some instances, it might be better that it not be a required step in order to proceed as directly as possible.

Professor Fox said that in the composition of the Hearing Committee as proposed there was no specification that at least one member of the Hearing Committee should be a member of the Senate. He said that in the normal pattern of the Senate the Chairman of the Professional Ethics and Academic Freedom Committee was a Senate member and this committee automatically became the Hearing Committee. Professor Fox asked if there was some merit in having a member of the Senate on the Hearing Committee as standard procedure. Professor Stevenson responded that the committee did not discuss that point but he thought it might be a matter best left to the discretion of the Executive Committee when appointing a Hearing Committee for it might happen, for example, that members of the law faculty, who are also members of the Senate, might not be eligible to participate for one reason or another, and he, therefore, would be opposed to specifying that the Chairman of the Hearing Committee be a member of the Senate.

Professor Lilliefors asked why the proposed Hearing Committee should be composed of only people of the rank of associate professor or above, and he moved that the words "all of whom shall be of the rank of Associate Professor or above," appearing in Section 2. b), subsection (1) on page 2, be stricken, and Professor Kirsch seconded. Professor Cottrell asked if that would open the possibility of appointing persons at the instructor level, and Professor Cassidy said that she would speak against the motion because she thought a Hearing Committee required a certain degree of expertise and experience since it would be listening to testimony of a large number of people at different levels. Professor Kirsch said he seconded the motion because he could conceive of a case where an assistant professor might be the principal party involved and could question the ineligibility of assistant professors to appointment on the Hearing Committee. A discussion followed by Professors Fox, Kirsch, Stevenson, and Lilliefors. Professor Naeser suggested that perhaps a reasonable compromise would be to specify that members of the Hearing Committee "shall be of tenured rank," which would include some assistant professors. Further discussion was held by Professors Kirsch, Naeser, and Morgan. Professor Stevenson suggested that the wording - "all of whom shall be full-time active status faculty members with tenure" - might solve the problem, and Professor Pierpont said that he especially liked that particular terminology. Professor Lilliefors and Professor



Kirsch agreed to the modification of the motion, the question was called, and the amendment was adopted unanimously.

Professor Fox said he would like to hear the pros and cons the committee weighed in its decision to strike the publicity section since he thought there might be the possibility of pressure and politicking once the case went beyond the Hearing Committee stage to the Senate and then to the Board of Trustees. Professor Stevenson said the committee thought the present language regarding publicity was extremely defective for it was unclear what it meant. Secondly, he said that it was felt that it was virtually impossible to keep any matter of controversy confidential for a long period of time for there were practicalities to be considered. He said that the committee determined that, unless there were extremely unusual circumstances present, the matter of publicity should be that followed by judicial proceedings which are open to be discussed in the press. Professor Stevenson said he did not think there was any possible way to prevent politicking and he viewed a limitation on publicity as an infringement of First Amendment Freedoms. He said the committee thought the best safeguards of publicity were the traditional ones - the good judgment and discretion of mature intelligent individuals.

Professor Griffith raised a question concerning language in the second sentence of subsection (3) on page 3 which states: "The parties shall be entitled to testify on their own behalf, to call as witnesses any member of the University community and any other person who is willing to testify, to present written and other tangible evidence, and to cross-examine witnesses called by other parties." He said he was not clear whether "willing to testify" qualifies both "members of the University community" and "any other person" or only "any other person," as he could imagine that there might be someone in the University community who was not willing to testify and he wondered if there was a sanction within the University community if a member did not want to testify or if testifying depended upon one's willingness to do so. Professor Stevenson replied that the intention of the language was to require that members of the University community testify if called to do so but, obviously, witnesses from outside the University could not be compelled to testify. He said that perhaps the ambiguity in the sentence could be corrected by inserting the word "also" before "any other person" so that it reads: "to call as witnesses any member of the University community and also any other person who is willing to testify." No objections were made to adding the word "also" for clarification and Professor Stevenson accepted the change on behalf of the committee. Provost Bright asked if the phrase "members of the University community" included students and non-academic personnel. Professor Stevenson said that that question had not been discussed but it would appear to include those persons. Professor Morgan said that adding the word "also" clearly distinguished the "members of the University community" from "other persons" and implies then they have an implicit right to have those persons called to testify, and, if that is the case, any member who is called to testify who refuses would be violating our own procedures and we would lose in the court reviewing that decision. Professor Stevenson said that if the University made a good faith effort to do all in its power to have the member of the University community in question testify, and the member refused, the University would not have violated its procedures. Professor Kirsch said he was very strongly opposed to members of the University community having to act as witnesses except at the court level where it would be appropriate, and he moved that the original language be retained by removing the word "also," and the motion was seconded. Professor Griffith said that he was opposed to Professor Kirsch's motion to delete the word "also" because he thought it was important to indicate in the Faculty Code that a member of the faculty is entitled to call members of the University community to testify at a hearing and, in giving faculty members that right, the Code also confers an obligation upon faculty members to testify. Professor Griffith said he was troubled, however, by the point

Provost Bright raised as to whether the phrase "members of the University community" would apply to students and to non-academic personnel since the Faculty Code clearly affects faculty members, both in terms of giving them rights and assessing them with obligations, and he did not know whether that would extend to the University community as a whole. Professor Morgan said that he agreed with Professor Griffith in that an obligation imposed by the Code was an obligation imposed on the faculty only, and he said he did not see how the Code and Ordinances governing the academic staff of the University could properly impose in a faculty proceeding an obligation on non-faculty members. A discussion followed by Professors Kirsch, Cassidy, Morgan, and Griffith. The question was called on Professor Kirsch's motion and was lost. Professor Griffith moved to amend the phrase "to call as witnesses any member of the University community" by substituting the word "faculty" for the word "community" so that the phrase reads: "to call as witnesses any member of the University faculty," and he also suggested that any references to University community should be left out so that the phrase "and also any other person," presumably referring to a person either inside or outside of the University community, would be on the same status. Professor Stevenson said he would accept that amendment on behalf of the committee. The question was called on the original resolution, as amended, and was adopted unanimously.

Professor Stevenson said that the next action on the Code revision would be to vote up or down Code Revision No. 2, together with the amendments approved at the May Senate meeting and the two amendments just adopted, which comprise the present version of the proposed revisions. He said it was his understanding that that action would be the first order of business at the November meeting of the Senate. Professor Morgan suggested that members of the Senate consider very carefully Code Revision No. 2, as amended, prior to the November Senate meeting, and he requested that if anyone expected to propose further amendments that such amendments be submitted in writing for it was the intent of the Executive Committee that final action on the Code Revision be taken at the November meeting.

Professor Wood said that since the Senate would be introducing a motion at the November Senate meeting to adopt the new proposed Code and since the Board of Trustees would act ultimately on the proposed revised Code, he wondered whether the President was willing to indicate what portions of the proposed revised Code he would support to the Board and what portions he might have some reservations about before the Senate took final action on it in November. President Elliott responded that he would prepare an analysis based on a careful study of the proposed revised Code for guidance to the Board and that he would be happy to share that analysis with the Senate before it moved any further, and he added that his report might include two or three items for re-examination which had not come up for consideration by the Senate.

5 Professor Morgan, on behalf of the Executive Committee, moved the nomination of Associate Professor Walton E. Smith to the Committee on Athletics, and Professor Smith was unanimously elected. Professor Morgan then asked for a suspension of the rules to allow Professor Adams to propose a nomination. No objection was heard to suspending the rules, and Professor Adams moved the nomination of Mr. Steven E. Sorkin, student, to the Physical Facilities Committee. Mr. Sorkin was unanimously elected.

6 Professor Morgan, on behalf of the Executive Committee, asked for suspension of the rules to propose a Resolution of Commendation. No objection was made to suspending the rules and Professor Morgan moved the following resolution:

A RESOLUTION OF COMMENDATION (75/6)

WHEREAS, Lloyd Hartman Elliott has recently completed ten years as President of The George Washington University; and

WHEREAS, his performance in that office has earned him the respect and admiration of his faculty colleagues:

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That the Faculty Senate commends Lloyd Hartman Elliott for his contributions to the progress of The George Washington University during a decade of faithful service and effective leadership.

Executive Committee  
of the Faculty Senate  
October 10, 1975

/s/ John A. Morgan, Jr.  
John A. Morgan, Jr., Chairman

President Elliott expressed his thanks to the Senate.

6 Under Brief Statements, Professor Kirsch said that he would like to compliment whoever was responsible for directing the attractive landscaping presently being undertaken on the grounds of the University which he considered an excellent expenditure of funds.

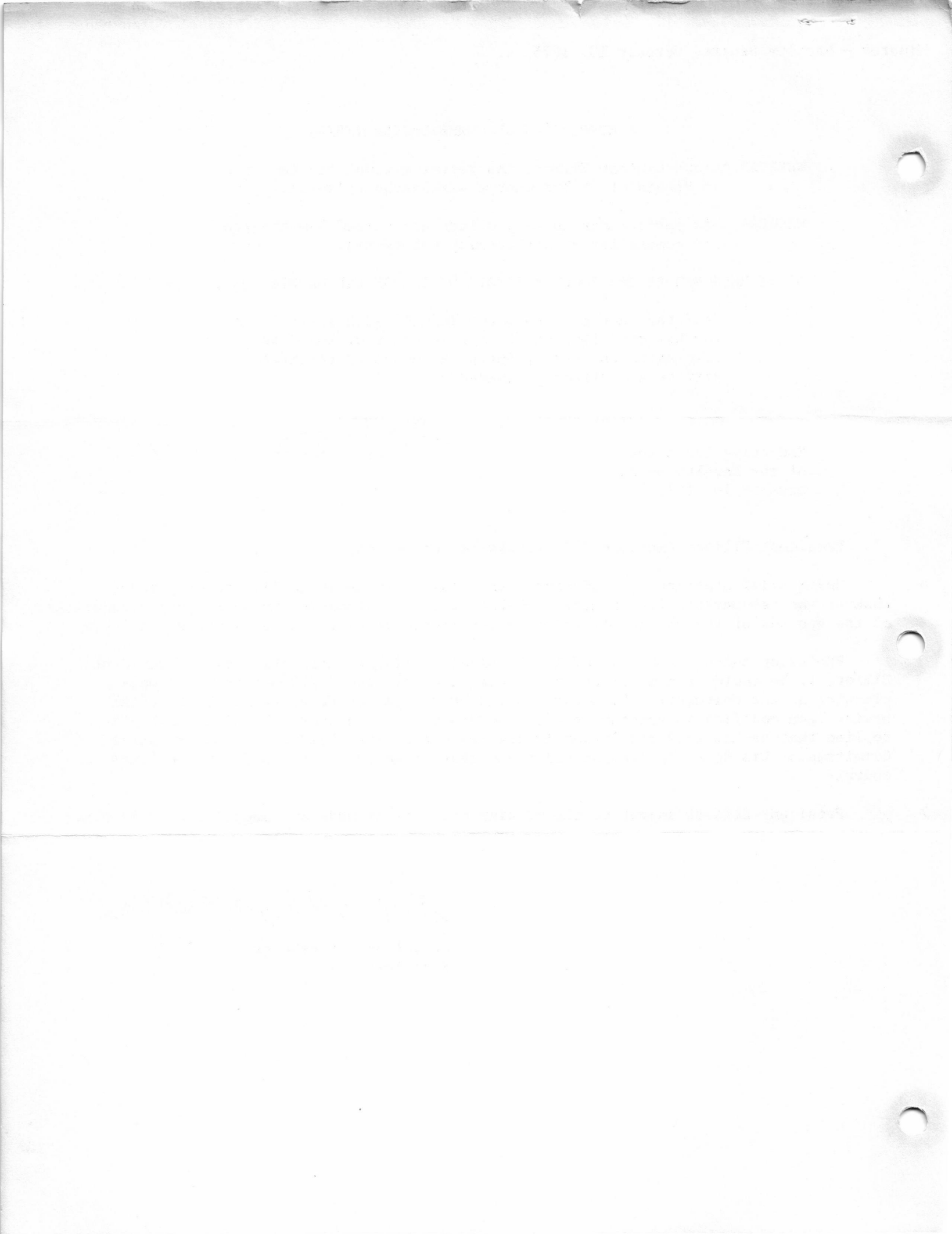
Professor Adams, on behalf of the Physical Facilities Committee, asked President Elliott if he could inform her of the status of Resolution 74/10 concerning campus planning at the University which was adopted by the Senate February 14, 1975, after having been modified in accordance with the President's request. President Elliott replied that he had this resolution at the request of the Chairman of the Executive Committee on his desk for consideration and that he would report to Professor Adams shortly.

7 President Elliott adjourned the meeting upon motion made and seconded at 3:35 p.m.



Robert Gebhardtshauer  
Secretary





THE GEORGE WASHINGTON UNIVERSITY  
Washington, D. C.

The Faculty Senate

October 1, 1975

The Faculty Senate will meet on Friday, October 10, 1975, at 2:10 p.m., in the Faculty Conference Room on the sixth floor of Lisner Hall.

AGENDA

1. Call to order
2. Executive Session: Report of Hearing Committee on the case of Linda G. De Pauw, Associate Professor of American History, Department of History
3. Minutes of the regular meeting of September 12, 1975
4. Old Business:  
  
Reintroduction and further consideration of Resolution 73/7, "A RESOLUTION APPROVING REVISIONS TO THE FACULTY CODE AND ORDINANCES," Professor Russell B. Stevenson, Jr., Chairman, Professional Ethics and Academic Freedom Committee
5. General Business:  
  
Nomination for election of Associate Professor Walton E. Smith, Management Science, to the Athletics Committee
6. Brief Statements
7. Adjournment



Robert Gebhardtsbauer  
Secretary

